

1 JUDGE O'CONNELL-DIAZ: Pursuant to the
2 direction of the Illinois Commerce Commission, we
3 now call Docket No. 02-0592, and this is in the
4 matter of Del Mar Woods -- Del Mar Water Company,
5 proposed general increase in water rates.

6 May I have the appearances for the
7 record, please.

8 Staff? You're not filing an appearance,
9 are you?

10 MR. KING: Roy King with the water department
11 of the Illinois Commerce Commission, 527 East
12 Capitol Avenue, Springfield, Illinois 62701.

13 My work telephone number is (217)
14 524-5040.

15 JUDGE O'CONNELL-DIAZ: And, Mr. King, could
16 you -- are there any other staff members that will
17 be filing an appearance?

18 MS. PHIPPS: Yes, this is Michelle Phipps. My
19 business address -- I'm sorry, I'm appearing on
20 behalf of the finance department of the financial
21 division of the Illinois Commerce Commission, 527
22 East Capitol Avenue, Springfield 62701.

1 MR. KNEPLER: Steven Knepler, appearing on
2 behalf of the accounting department, the Illinois
3 Commerce Commission, 527 East Capitol Avenue,
4 Springfield, Illinois. My business telephone is
5 area code (217) 785-1420.

6 JUDGE O'CONNELL-DIAZ: Are those all the
7 appearances in Springfield?

8 A VOICE: Do you want us all to enter an
9 appearance?

10 JUDGE O'CONNELL-DIAZ: Do you want all of us to
11 put in an appearance?

12 JUDGE O'CONNELL-DIAZ: Well, that's really up
13 to you whether you're going to file an appearance.

14 I can't tell you -- if you're just
15 sitting in, you don't need to file an appearance;
16 but if you're going to be on the record, you
17 probably should.

18 MS. JONES: Verna Jones appearing on behalf of
19 the accounting department, financial analysis
20 division of the Illinois Commerce Commission, 527
21 East Capitol Avenue, Springfield, Illinois 62701.

22 MS. BOWERS: Carolyn Bowers, B-o-w-e-r-s, of

1 the accounting department of the financial analysis
2 division of the Illinois Commerce Commission, 527
3 East Capitol Avenue, Springfield, Illinois 62701.

4 JUDGE O'CONNELL-DIAZ: Is that it in
5 Springfield?

6 MR. KING: I believe that's all the staff
7 that's making an appearance today.

8 JUDGE O'CONNELL-DIAZ: Mr. Mascolino?

9 MR. MASCOLINO: Yes. Michael Mascolino, 2690
10 Birchwood, Del Mar Woods, Illinois. Area code
11 (847) 945-0912, president of the Del Mar Woods
12 Improvement Association.

13 JUDGE O'CONNELL-DIAZ: Company?

14 MR. STEVEN LUBERTOZZI: Steve Lubertozzi on
15 behalf of the applicant.

16 JUDGE O'CONNELL-DIAZ: You'll have to spell
17 your name, sir.

18 MR. STEVEN LUBERTOZZI: L-u-b-e-r-t-o-z-z-i.
19 Address is 2335 Sanders Road, Northbrook Illinois.
20 Business phone (847) 498-6440.

21 JUDGE O'CONNELL-DIAZ: Anyone else from the
22 company?

1 MR. STEVEN LUBERTOZZI: No.

2 JUDGE O'CONNELL-DIAZ: And what is your

3 capacity with the Company, sir?

4 MR. STEVEN LUBERTOZZI: Director of regulatory

5 accounting.

6 JUDGE O'CONNELL-DIAZ: I believe we have a

7 petition to intervene that has been filed by the

8 Del Mar Woods Improvement Association.

9 Are there any objections to the granting

10 of that petition to intervene?

11 MR. KING: Staff has no objection.

12 MR. STEVEN LUBERTOZZI: The Company has no

13 objection.

14 JUDGE O'CONNELL-DIAZ: Let the record reflect

15 that that petition is hereby granted.

16 The purpose of our hearing today is a

17 status hearing to move toward a hearing date, and I

18 would look to Mr. King to advise the Commission

19 with regard to what the status of this matter is.

20 MR. KING: Okay. At the present time, Staff

21 and the intervenors and the Company in that their

22 filing has filed direct testimony at this time on

1 their -- based on some of the responses that we
2 have received, especially intervening --
3 intervenors' direct testimony, we see that we'll be
4 going forward and being put in rebuttal testimony
5 at this time.

6 Also, due to some questions concerning
7 rate of return and other things, there's a
8 possibility that we will also be requesting legal
9 counsel to advise staff on the matter. This has
10 been relayed to the utility earlier this morning.
11 I did not -- was -- I did not get ahold of the
12 homeowner association before this morning.

13 JUDGE O'CONNELL-DIAZ: Okay. Mr. Lubertozzi,
14 am I pronouncing your name correctly.

15 MR. STEVEN LUBERTOZZI: Lubertozzi.

16 JUDGE O'CONNELL-DIAZ: Lubertozzi.

17 At some point in time, is counsel for
18 the Company going to file an appearance?

19 MR. STEVEN LUBERTOZZI: Yes, based on the
20 information that was received yesterday and this
21 morning, the Company will be having the attorneys
22 file an appearance.

1 JUDGE O'CONNELL-DIAZ: Okay. Currently, we're
2 scheduled for a hearing date of December 18th.

3 MR. STEVEN LUBERTOZZI: Correct.

4 JUDGE O'CONNELL-DIAZ: Are we in a position to
5 know whether we're going to go forward on the 18th
6 or --

7 MR. STEVEN LUBERTOZZI: The Company's position
8 is that we can still be ready to go on December
9 18th with the attorney.

10 JUDGE O'CONNELL-DIAZ: Where is the attorney
11 today?

12 MR. STEVEN LUBERTOZZI: He hasn't filed an
13 appearance yet.

14 JUDGE O'CONNELL-DIAZ: It would have been nice
15 to have him on the line.

16 MR. STEVEN LUBERTOZZI: Well, we spoke with
17 staff yesterday and we decided the intention of
18 going to have attorneys involved and not getting
19 attorneys to keep the rate case expense down. But
20 this morning, we had a call following up that Staff
21 was requesting an attorney and that just solidifies
22 our opinion decision to get an attorney this

1 morning.

2 JUDGE O'CONNELL-DIAZ: Would it be helpful for
3 us to have a status early next week with the
4 counsel for the Company participating in the
5 hearing to get an idea as to us going forward on
6 the 18th or --

7 MR. STEVEN LUBERTOZZI: Our attorneys is
8 advised that the 18th is the hearing date, which
9 he's prepared for that date.

10 JUDGE O'CONNELL-DIAZ: I can't hear you, sir.

11 MR. STEVEN LUBERTOZZI: Our attorneys have been
12 advised that the hearing date is December 18th and
13 he should be ready to go on that date.

14 JUDGE O'CONNELL-DIAZ: Well, you may advise the
15 attorney that that is what's going to happen, but
16 he may have a different opinion based upon whatever
17 he's going to be looking at.

18 MR. STEVEN LUBERTOZZI: This is true, but I
19 think he's already cleared his scheduled and made
20 himself available to us for that date.

21 If you want, we can get him on the phone
22 now. I think he may have already sent his

1 appearance over or have the form ready to go.

2 MR. KING: Ms. O'Connell, this is Roy King. I
3 would support having a quick status next week
4 probably on the Wednesday morning, if it's
5 possible; and this way, that will give us also some
6 time to get ahold of our attorney and advise him of
7 the schedule and, this way, we can tell you if our
8 attorneys will be able to make that schedule as
9 long as -- and this way, also provide the Company
10 to get ahold of them and check with their attorney.
11 This way, we can get in coordination.

12 JUDGE O'CONNELL-DIAZ: I would prefer to do it
13 Monday or Tuesday.

14 MR. KING: We could do it Tuesday morning.
15 Staff has no problem with that.

16 JUDGE O'CONNELL-DIAZ: Company?

17 MR. STEVEN LUBERTOZZI: Tuesday would be fine
18 with the Company.

19 JUDGE O'CONNELL-DIAZ: Mr. Mascolino?

20 MR. MASCOLINO: Yeah, that's fine.

21 JUDGE O'CONNELL-DIAZ: Okay. Let's schedule
22 this then for a --

1 MR. KING: If it's possible, could we have it
2 at either 9:00 o'clock Tuesday morning or 11:00
3 o'clock Tuesday?

4 MR. STEVEN LUBERTOZZI: The Company would
5 prefer 9:00 o'clock.

6 JUDGE O'CONNELL-DIAZ: We're not having it at
7 9:00 o'clock.

8 MR. STEVEN LUBERTOZZI: Okay.

9 JUDGE O'CONNELL-DIAZ: I'm trying to think of a
10 shorter circuit than having to have a full-blown
11 status hearing.

12 MR. KING: How about a cell phone conference?
13 We'll file a hearing just between you and the
14 Company and us.

15 JUDGE O'CONNELL-DIAZ: I think what we'll do
16 today is we'll keep that December 18th hearing
17 date.

18 And if based on the review that,
19 obviously, Staff's counsel and Company counsel
20 makes, if they have a different viewpoint of the
21 ability to move this to hearing on the 18th, that
22 they would communicate that to me and Judge Brodsky

1 and we would schedule either a conference call or
2 an additional status hearing to deal with that; but
3 at this point, it seems that it would be prudent to
4 keep that 18th day.

5 We are mindful of the fact that
6 Mr. King, who is an integral part of the case is
7 going to be taking early retirement. We'd like to
8 have this case wound up by the time he does that,
9 which is at the end of December.

10 So I think, at this point, we will just
11 keep that December 18th hearing date. And unless
12 we hear otherwise from the parties that that is not
13 a lift-off date for the hearing, then we will go
14 forward on that day.

15 Is that agreeable to the parties?

16 MR. KING: Yes.

17 MR. STEVEN LUBERTOZZI: Yes.

18 MR. MASCOLINO: A tentative yes.

19 I think that if you try to -- this is
20 Mike Mascolino, Del Mar Woods.

21 I don't think it's primary whether or
22 not a person on the ICC staff is retiring or not

1 should have any bearing on whether or not the case
2 moves forward or goes lower or any matter like
3 that.

4 When we're talking these kind of
5 numbers, I think we have to have a clear airing of
6 the issue. We cannot rely on whether someone is
7 retiring or not retiring or if a new caseworker is
8 going to be appointed to the case.

9 JUDGE O'CONNELL-DIAZ: Well, Mr. Mascolino, it
10 is a consideration that I have in my mind.

11 If you object to us moving forward on
12 the 18th, so state.

13 MR. MASCOLINO: I would object to anything that
14 would be based solely on whether or not a case
15 manager is retiring or not. That is not the issue.

16 The issue before the ICC is getting a
17 water main system that is adequately priced and
18 installed, not whether or not someone is retiring
19 or not.

20 JUDGE O'CONNELL-DIAZ: Well, Mr. Mascolino, I
21 think you misunderstood my point.

22 We're in the evidentiary stage of this

1 case. You have filed direct testimony.

2 MR. MASCOLINO: Yes.

3 JUDGE O'CONNELL-DIAZ: The parties are then
4 going to go file rebuttal testimony and then we
5 will have a hearing to flush out the issues that
6 you deem appropriate and they have objections to;
7 we are looking for a date that we can do that.

8 We have a schedule in place right now
9 with regard to the testimony.

10 MR. MASCOLINO: Hm-hmm.

11 JUDGE O'CONNELL-DIAZ: So after we have the
12 hearing, there will be briefs filed --

13 MR. MASCOLINO: Hm-hmm.

14 JUDGE O'CONNELL-DIAZ: -- based upon the
15 evidence that is deduced at the hearing, and then
16 the judges will make the recommendation based on
17 all the evidence to the Commission. That will not
18 happen by the end of the year.

19 I am just trying to facilitate that this
20 matter get done -- it was my understanding that
21 this is an important issue to the citizens that
22 live in the area that this water service issue --

1 the rate case is about and that they would like to
2 move this as quickly as possible. And in an effort
3 to do that, we are trying to accommodate not only
4 the Company, Staff, but also the homeowners
5 association.

6 MR. MASCOLINO: Hm-hmm.

7 JUDGE O'CONNELL-DIAZ: So the fact that we are
8 trying to complete the hearings in the month of
9 December is actually, I think, a prudent thing to
10 do.

11 Whether Mr. King retires or is not here,
12 we would like to -- since he has worked on this
13 matter, if we can facilitate him participating in
14 it, it will help move this matter quickly. So that
15 during year 2003, the Commission can, in fact, make
16 a ruling with regard to the issues that are
17 presented.

18 We are in no -- we have no interest in
19 short-circuiting any type of arguments that you,
20 the Company or Staff have with regard to the
21 filing.

22 MR. MASCOLINO: Okay.

1 JUDGE O'CONNELL-DIAZ: Okay. So I think you
2 probably are not understanding the process that we
3 go through when a case like this is filed. It is
4 a -- it is a lengthy process. There has been some
5 discovery ongoing.

6 Obviously, you have filed your
7 testimony. The Company's going to file and Staff's
8 going to file rebuttal testimony, and there's
9 surrebuttal testimony also. So this is all part of
10 the process. I'm just trying to --

11 MR. MASCOLINO: Okay.

12 JUDGE O'CONNELL-DIAZ: -- move it along so that
13 we can get the case done.

14 You know, by statute, it has to be
15 completed within 11 months, so that's what we're
16 trying to do here.

17 MR. MASCOLINO: Okay.

18 JUDGE O'CONNELL-DIAZ: So you don't need to
19 worry about that you're going to get short-shifted
20 or anything.

21 MR. MASCOLINO: Okay.

22 JUDGE O'CONNELL-DIAZ: Okay?

1 MR. MASCOLINO: Thank you.

2 JUDGE O'CONNELL-DIAZ: Okay. Well, then at

3 this juncture, is there anything else we need to

4 address on the record?

5 MR. KING: What I would like to do just to --

6 at this time is maybe go through and read the rest

7 of the schedule into the record, so this way, the

8 homeowner association knows, you know, what -- when

9 the rebuttal testimony and stuff is due.

10 JUDGE O'CONNELL-DIAZ: That would be fine.

11 MR. KING: Okay. The Company's rebuttal

12 testimony is due November 27th.

13 Staff and Intervenor's rebuttal

14 testimony will be due December 6th and Del Mar's

15 surrebuttal will be due December 13th and we'll

16 have evidentiary hearings December 18th in Chicago.

17 JUDGE O'CONNELL-DIAZ: Mr. Mascolino, do you

18 understand that you have a filing date based on the

19 fact that you are now --

20 MR. MASCOLINO: -- I have a filing date, and

21 then we will be in on the 18th at the end of that

22 hearing.

1 JUDGE O'CONNELL-DIAZ: That's correct. I just
2 want to make sure that you know how this is going
3 to proceed.

4 MR. MASCOLINO: Sure.

5 All the documentation from Company, from
6 Staff that is going to occur on the 27th and the
7 6th will be -- I will get hard copies of that prior
8 to the 13th to prepare a surrebuttal?

9 JUDGE O'CONNELL-DIAZ: Mr. King?

10 MR. KING: Mike?

11 MR. MASCOLINO: Yes.

12 MR. KING: This is Roy. I'll be happy to not
13 only serve you e-mail, but I will -- as soon as we
14 have the information, I will be happy to send you a
15 hard copy.

16 MR. MASCOLINO: Sure. Thank you.

17 MR. STEVEN LUBERTOZZI: The company will do the
18 same, but understand we're under a tight time frame
19 to provide anybody a copy of the testimony via
20 e-mail --

21 MR. MASCOLINO: Sure.

22 MR. KING: I would like to make one correction,

1 Mike.

2 MR. MASCOLINO: Hm-hmm.

3 MR. KING: Your rebuttal testimony is due
4 December 6th.

5 So the Company's surrebuttal is due
6 December 13th.

7 JUDGE O'CONNELL-DIAZ: Okay. That's the
8 schedule that we have, too.

9 MR. MASCOLINO: You have the --

10 MR. KING: Because I thought you said that your
11 testimony would be due the 13th. I'm just -- maybe
12 I misunderstood. I just wanted to clear up Staff
13 and your testimony would be due December 6th.

14 MR. MASCOLINO: Okay. December 6th is my
15 testimony as well as your testimony?

16 MR. KING: That is correct.

17 MR. MASCOLINO: And the 13th is --

18 MR. KING: Under our procedures, since the
19 Company has initiated the rate increase, they have
20 the last -- I hate to use the term -- shot at the
21 intervenor and it's called surrebuttal testimony.

22 MR. MASCOLINO: Okay. And that would be the

1 13th?

2 MR. KING: That is correct.

3 MR. MASCOLINO: Okay.

4 JUDGE O'CONNELL-DIAZ: So, Mr. Mascolino, yours
5 is due on the 6th along with the Staff's, okay?

6 And if you have questions with regard to
7 the procedure, you certainly can pick up the phone
8 and call me, and I can step you through that
9 process as long as it's a procedural matter.

10 MR. MASCOLINO: Thank you.

11 JUDGE O'CONNELL-DIAZ: Okay. At this juncture,
12 we are -- we have the hearing date of December
13 18th.

14 If that is not a feasible date based on
15 the various counsel's review, parties will
16 communicate that to the administrative law judges
17 and we will look to setting a different schedule,
18 so we would set up a status hearing to do that and
19 then we will communicate that to the parties, if
20 that is the eventuality.

21 Is there anything else we need to
22 address on the record?

1 MR. STEVEN LUBERTOZZI: --

2 JUDGE O'CONNELL-DIAZ: I'm sorry. Who is

3 this?

4 MR. STEVEN LUBERTOZZI: I'm sorry. Steve

5 Lubertozzi with the Company.

6 JUDGE O'CONNELL-DIAZ: We're having a hard time

7 hearing you.

8 MR. STEVEN LUBERTOZZI: Okay. Well, sorry

9 about that, but that's my talking right into the

10 phone -- not in the speaker phone here.

11 So is there any need to have the

12 telephonic conference next Tuesday to --

13 JUDGE O'CONNELL-DIAZ: No. At this point in

14 time, we are not.

15 However, I would request that if your

16 counsel or staff counsel is not agreeable to the

17 hearing date that we have scheduled for December

18 18th, that they communicate that to us so that we

19 can in fact have a status where all parties will

20 come together and we'll set another date that is

21 agreeable.

22 MR. STEVEN LUBERTOZZI: Okay.

1 JUDGE O'CONNELL-DIAZ: Additionally, on the
2 18th, we will not permit -- assuming we go forward
3 with the hearing, parties will not be permitted to
4 appear via the telephone. They will have to be
5 here at the hearing at the Commission offices in
6 Chicago, okay?

7 MR. KING: Yes.

8 JUDGE O'CONNELL-DIAZ: Alrighty. Then this
9 matter is now continued to December 18th at 10:00
10 o'clock for hearing unless we are advised otherwise
11 by the parties.

12 Thank you, everyone.

13 MR. KING: Thank you.

14 Have a good day.

15 MR. MASCOLINO: Thank you.

16 (Whereupon, said hearing was
17 continued to December 18th,
18 2002 at 10:00 a.m.))

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